

## **SECTION 3.0 USE REGULATIONS**

### **3.1 PRINCIPAL USES.**

No land shall be used and no structure shall be erected or used except as set forth in the following Table of Use Regulations, including the notes to the Table, or as otherwise set forth herein, or as exempted by General Laws. Any building or use of premises not herein expressly permitted is hereby prohibited. Not more than one principal use shall be allowed on any lot, except as otherwise may be provided herein.

#### **3.1.1 Symbols.**

Symbols employed in the Table of Use Regulations shall mean the following:

Y - A permitted use.

N - An excluded or prohibited use.

PB - A use authorized under special permit from the Planning Board as provided under Section 9.4.

BA - A use authorized under special permit from the Board of Appeals as provided under Section 9.4.

CC - A use authorized under special permit from the City Council as provided under Section 9.4.

#### **3.1.2 Applicability.**

When an activity might be classified under more than one of the following uses, the more specific classification shall govern; if equally specific, the more restrictive shall govern.

#### **3.1.3 Major Nonresidential Use.**

Notwithstanding the entries in the Table of Use Regulations for a specific nonresidential use in subsections C- J, inclusive, a Major Nonresidential Use shall require a special permit from the Planning Board; provided, however, that an Urban Renewal Use shall be exempt from this requirement. For example, a "business or professional office" in the BC District shall be allowed as of right as long as it does not exceed 9,999 gross square feet in floor area; thereafter, the use shall be classified as a Major Nonresidential Use and shall require a special permit from the Planning Board. The special permit requirement for a Major Nonresidential Use shall supersede the requirement for site plan review set forth in Section 9.5; it shall not supersede the requirement of a variance, when applicable.

#### **3.1.4 Table of Use Regulations.**

See Appendix A.

### **3.2 ACCESSORY USES AND STRUCTURES**

### **3.2.1 General.**

The following provisions shall apply to all accessory uses and structures.

1. An accessory use shall be permitted only on the same lot as the building or use to which it is accessory, except as otherwise provided herein.
2. No accessory use shall occupy more than twenty-five percent of the gross floor area of the principal structure located on the lot, whether such accessory use is located in the principal structure or not.
3. No accessory use is permitted which involves the maintenance of a stock in trade or the use of signs, show windows, illumination or displays except as permitted in Section 5.3.

### **3.2.2 Accessory Uses; All Districts.**

The following accessory uses are specifically permitted in all districts as of right or by special permit:

1. *Temporary Construction Trailers.* The Building Commissioner may grant a temporary occupancy permit for temporary buildings and trailers during building construction where reasonably required for such construction. Such permit may be issued for an initial period of not more than one year. Permits may be renewed by the Building Commissioner for successive periods of not more than one year each.
2. *Accessory Scientific Uses.* Uses, whether or not on the same parcel as activities permitted as a matter of right, which are necessary in connection with scientific research or scientific development or related production, may be permitted upon the issuance of a special permit by the Board of Appeals, provided that the Board finds that the proposed use does not substantially derogate from the public good.
4. *Family Day Care Homes.* Small and large family day care homes are allowed as set forth in the Table of Uses.
5. *Adult Day Care Homes.* Adult day care homes are allowed in all districts as an accessory use only upon the issuance of a special permit by the Board of Appeals.

### **3.2.3 Accessory Uses in the Residence Districts.**

The following provisions shall apply to accessory uses and structures in the Residence Districts:

1. *Certain Buildings.* Tool sheds, garden sheds, storage sheds, garages, or other like buildings shall be allowed as accessory uses in the Residence Districts. Any such building shall meet the minimum front yard requirements; however, the minimum rear and side yard setback shall be six feet. No such building shall be higher than one story, or sixteen feet, which for the purposes of this Section only, shall be measured from the floor to the peak of the roof, nor shall such building exceed twenty-five percent of the

gross floor area of the principal structure on the lot. Any such building shall be located at least ten feet away from any other building or structure. Such buildings shall be properly anchored for wind loading.

2. *Parking of Commercial Vehicles.* The following regulations shall govern the offstreet parking of commercial vehicles in the Residence Districts:

- a. Not more than one commercial vehicle of not more than 10,000 gvw may be parked or garaged on the premises.
- b. Not more than one commercial vehicle of 10,000 to 20,000 gvw may be garaged on the premises; no outdoor parking of such vehicles is permitted.
- c. The outdoor parking or garaging of a commercial vehicle of more than 20,000 gvw is prohibited.

3. *Private Garage or Parking Area.* A private garage or parking area for not more than four noncommercial motor vehicles accessory to a single-family dwelling or a permitted nonresidential use in any Residence District; for not more than two noncommercial motor vehicles for each dwelling unit for a two-family or multifamily dwelling in Residence A, B, and C; for not more than 10 motor vehicles in any other district; provided, however, that more than the limits specified above may be authorized by special permit from the Board of Appeals.

4. *Prohibited Accessory Uses.* In the Residence Districts, the following accessory uses are prohibited:

- a. Kennels;
- b. Contractor's yard for the storage of building materials or equipment;
- c. The storage or keeping of commercial landscaping equipment, materials, supplies, or piles;
- d. Commercial auto repair or service.

### **3.2.4 Accessory Uses in the Business and Industrial Districts.**

In the Business and Industrial Districts, any use permitted as a principal use is also permitted as an accessory use provided such use is customarily incidental to the main or principal building or use of the land. Any use authorized as a principal use by special permit may also be authorized as an accessory use by special permit provided such use is customarily incidental to the main or principal building or use of the land. Any use not allowed in the district as a principal use is also prohibited as an accessory use. Accessory uses are permitted only in accordance with lawfully existing principal uses. In all instances where site plan review and approval is required for a principal use, the addition of any new accessory use to the principal use, where such addition exceeds the thresholds established in Section 9.5, shall also require site plan review and approval.

1. *Parking of Commercial Vehicle.* The garaging or parking of not more than one commercial vehicle, not to exceed 20,000 gvw, shall be allowed as of right in the Business and Industrial Districts, except in the BA District.

## **3.3 HOME OCCUPATIONS**

### **3.3.1 Home Occupation - As of Right.**

One (1) home occupation may be allowed on any premises as of right, provided that the home occupation:

1. is conducted solely within a dwelling and solely by the person(s) occupying the dwelling as a primary residence;
2. is clearly incidental and secondary to the use of the premises for residential purposes;
3. does not produce offensive noise, vibration, smoke, dust, odors, heat, lighting, electrical interference, radioactive emission or environmental pollution;
4. does not utilize exterior storage of material or equipment (including the parking of commercial vehicles);
5. does not exhibit any exterior indication of its presence or any variation from residential appearance;
6. does not produce any customer, pupil, or client trips to the occupation site and has no nonresident employees;
7. is registered as a business with the City Clerk.

### **3.3.2 Home Occupation - By Special Permit.**

One (1) home occupation may be allowed on any premises by special permit issued by the Board of Appeals, provided that:

1. the home occupation complies with the pertinent provisions of Section 3.3.1, above;
2. is conducted within a dwelling solely by the person(s) occupying the dwelling as a primary residence and, in addition to the residents of the premises, by not more than three additional employees;
3. does not exhibit any exterior indication of its presence, or any variation from residential appearance, except for a sign or name plate in compliance with Section 5.3;
4. a special permit for such use is granted by the Board of Appeals, subject to conditions including, but not limited to, restriction of hours of operation, maximum floor area, offstreet parking, and maximum number of daily customer vehicle trips. Such special permit shall be limited to three years, or the transfer of the property, whichever first occurs, and may be renewed by the Board of Appeals.

## **3.4 NONCONFORMING USES AND STRUCTURES**

### **3.4.1 Applicability.**

This Zoning Ordinance shall not apply to structures or uses lawfully in existence or lawfully begun, or to a building or special permit issued before the first publication of notice of the public

hearing required by G.L. c. 40A, s. 5 at which this Ordinance, or any relevant part thereof, was adopted. Such prior, lawfully existing nonconforming uses and structures may continue, provided that no modification of the use or structure is accomplished, unless authorized hereunder.

1. Certain changes to nonconforming uses and structures are allowed by Finding from the Building Commissioner. See the list of such authorized changes in the Building Department.

### **3.4.2 Nonconforming Uses.**

The Board of Appeals may grant a Finding to change a nonconforming use in accordance with this section only if it determines that such change or extension shall not be substantially more detrimental than the existing nonconforming use to the neighborhood. The following types of changes to nonconforming uses may be considered by the Board of Appeals:

1. Change or substantial extension of the use;
2. Change from one nonconforming use to another, equally detrimental or less detrimental, nonconforming use.

### **3.4.3 Nonconforming Structures.**

The Board of Appeals may grant a Finding to reconstruct, extend, alter, or change a nonconforming structure in accordance with this section only if it determines that such reconstruction, extension, alteration, or change shall not be substantially more detrimental than the existing nonconforming structure to the neighborhood. The following types of changes to nonconforming structures may be considered by the Board of Appeals:

1. Reconstructed, extended or structurally changed;
2. Altered to provide for a substantially different purpose or for the same purpose in a substantially different manner or to a substantially greater extent.

### **3.4.4 Variance Required.**

Except as provided in subsection 5, below, the reconstruction, extension or structural change of a nonconforming structure in such a manner as to increase an existing nonconformity, or create a new nonconformity, including the extension of an exterior wall at or along the same nonconforming distance within a required yard, shall require the issuance of a variance from the Board of Appeals.

### **3.4.5 Nonconforming Single and Two Family Residential Structures.**

Nonconforming single and two family residential structures may be reconstructed, extended, altered, or structurally changed upon a determination by the Building Commissioner that such proposed reconstruction, extension, alteration, or change does not increase the nonconforming nature of said structure. The following circumstances shall not be deemed to increase the nonconforming nature of said structure:

1. *Horizontal Extensions.* Horizontal extensions may be authorized by the Building Commissioner subject to the following conditions:

- a. the proposed extension follows in line with the existing nonconforming structure where such structure is encroaching on a required rear or side yard setback;
- b. the proposed extension does not encroach any further forward in a required front yard;
- c. the proposed extension complies with all other provisions of this Ordinance.

2. *Vertical Extensions.* Vertical extensions may be authorized by the Building Commissioner subject to the following conditions:

- a. reconstructed structures shall be built on the original footprint;
- b. the height restriction of the respective areas in which these structures are located will be observed.

Any other type of proposed reconstruction, extension, alteration, or change may be authorized by the Board of Appeals by a Finding, upon a determination that the proposed modification will not be substantially more detrimental than the existing nonconforming structure to the neighborhood.

#### **3.4.6 Abandonment or Non-Use.**

A nonconforming use or structure which has been abandoned, or not used for a period of two years, shall lose its protected status and be subject to all of the provisions of this Ordinance.

#### **3.4.7 Catastrophe or Demolition.**

Any nonconforming structure may be reconstructed after a fire, explosion or other catastrophe, or after voluntary demolition, provided that such reconstruction is completed within twelve months after such catastrophe or after such voluntary demolition, and provided that the building(s) as reconstructed shall be only as great in volume or area as the original nonconforming structure and located on the original building footprint, unless a larger volume or area or a new building footprint is authorized by Finding from the Board of Appeals. Such Finding shall be obtained prior to the voluntary demolition of a nonconforming structure. The time for reconstruction may be extended by the Board of Appeals for good cause.

#### **3.4.8 Reversion to Nonconformity.**

No nonconforming use shall, if changed to a conforming use, revert to a nonconforming use.